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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,045	10/27/2003	Gerald Goertzen	12873/04325	5698

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EXAMINER

SPISICH, GEORGE D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,045

Applicant(s)

GOERTZEN ET AL.

Examiner

George D. Spisich

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-20 is/are allowed.
- 6) ☒ Claim(s) 1-3,9 and 11 is/are rejected.
- 7) ☒ Claim(s) 4-8,10 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/28/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Singh et al. (USPN 3,883,153).

Singh et al. disclose a suspension for a vehicle comprising a frame (F), a releasable locking assembly (25 and 27) comprising a plurality of selectively actuatable locking states (as element 27 slides into element 25 at a variety of displacement position), where the plurality of locking states ranges from a first position to a second position and at least one other position between the first and second positions, the plurality of states being selectively actuatable upon the frame exhibiting a tipping behavior.

The locking assembly further comprises a first undulating portion (27). Since the member (27) has a pivot (29) it is considered undulating.

With respect to claim 11, Singh et al. disclose at least one pivot arm (11) coupled to the frame. The releaseable locking assembly (25 and 27) has a first portion (27) coupled to the pivot arm and a second portion (25) coupled to the frame. The first and second portions have a state of "selective" engagement restricting movement of the frame relative to the pivot arm. The state of "selective" engagement comprising a state selected from a range of states comprising a first state, second state, and at least one other state between the first and second states. Again, this is met by the variety of engagement positions of element 27 and 25 as member 27 is displaced.

Claims 1,2,3 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Sanchez (USPN 6,588,799).

Sanchez discloses a suspension for a vehicle comprising a frame, a releasable locking assembly (46,42 and 48) comprising a plurality of selectively actuatable locking states, where the plurality of locking states ranges from a first position to a second position and at least one other position between the first and second positions, the plurality of states being selectively actuatable upon the frame exhibiting a tipping behavior.

The locking assembly further comprises a first undulating portion (48) and a second undulating portion (46).

The second undulating portion (46) is coupled to a pivot arm attached to the frame.

The arrangement of Sanchez is broadly considered a suspension.

Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Sanchez (USPN 6,588,799).

Sanchez has been used for a prior rejection, however, in this rejection the elements of Sanchez are considered as different elements to meet claim 11.

Sanchez discloses at least one pivot arm (44) coupled to the frame. The releaseable locking assembly (42, 46 and 48) has a first portion (46) coupled to the pivot arm (44) and a second portion (42) coupled to the frame. The first and second portions have a state of selective engagement restricting movement of the frame relative to the pivot arm. The state of selective engagement comprising a state selected from a range of states comprising a first state, second state, and at least one other state between the first and second states.

Allowable Subject Matter

Claims 13-20 are allowed.

Claims 4-8, 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art does not show a vehicle suspension having first and second movable assemblies that engage each other when a frame exhibits a tipping behavior and having toothed or stepped portions on the first and second movable assemblies.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sakita (USPN 4,826,194), Wu (USPN 5,467,838), Degonda et al. (USPN 5,964,473), Olson (USPN 3,174,176), Tran et al. (USPUB2004/0032119), Vidal (USPN 5,611,555), Tahara et al. (USPN 5,513,875), Kral (USPN 6,460,641), Pulver et al. (USPN 6,131,679), Goertzen et al. (USPN 5,575,348), CA 2,254,372.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (703) 305-6495. The examiner can normally be reached on Monday-Friday 9:30 to 7:00 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George D. Spisich
February 14, 2005



PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
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